HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ petition no. 171 (S/S) 2001

Sri Anil Kumar S/o late Sri Raghav,
R/o Crop Research Centre,
Pantnagar, Distt. Udham Singh Nagar. ----Petitioner.

Vs.

1. The Vice Chancellor,
   G.B. Pant University of Agriculture &,
   Technology, Pantnagar,
   District Udham Singh Nagar,
2. The Registrar,
   G.B.Pant University of Agriculture &,
   Technology, Pantnagar,
   District Udham Singh Nagar
3. The Establishment Officer,
   G.B.Pant University of Agriculture &,
   Technology, Pantnagar,
   District Udham Singh Nagar. ----Respondents.

Sri Manoj Tewari , learned counsel for the petitioner,
Sri Rajendra Dobhal, learned counsel for the respondents.

Hon'ble M.M. Ghildiyal, J.

Heard Sri Manoj Tewari, learned counsel for the petitioner and Sri Rajendra Dobhal, learned counsel for the respondents.

The petitioner has filed this writ petition for the following reliefs:-

A- To issue a writ, order or direction in the nature of mandamus commanding the respondents to consider and appoint the petitioner in the University under the U.P. Dependents of Government Servants (Dying in Harness) Rules 1974.

B- To issue a writ, order or direction in the nature of mandamus commanding the respondents to forthwith pay the entire dues including family pension, group insurance, G.P.F. and gratuity to the petitioner;

C- To issue a writ, order or direction in the nature of mandamus commanding the respondents to pay interest on the delayed payment of the dues of the father of the petitioner at the rate determined by this Hon'ble Court.

D- To award the cost of the writ petition in favour of the petitioner.

Submission of the petitioner is that he is adopted son of late Sri Raghav, who was working in the University as Agriculture Labour. Sri Raghav expired on 25.12.1999 while in the service of the University. The petitioner made an application before the respondents for appointment on the Class IV post as Agriculture Labour under dying-in-harness Rules. Since no heed was paid by the respondents, the petitioner filed present writ petition.

A counter affidavit has been filed by the respondents. In the counter affidavit, the respondents have admitted that Sri Raghav was working as Daily Wage Labour in the University till 01.10.1989 and thereafter on 02.10.1989 he was regularized. He expired on 25.10.1999 after completing 10 years' service in regular capacity.

In para 10 of the counter affidavit, it is stated that the request for engagement of petitioner was received from concern unit but the required formalities were not completed by the petitioner, therefore the concerned unit was directed to complete the formalities. It is also stated by the respondents that one Sri Ramjeet an employee in the University, in his bio-data, has nominated the petitioner as his son and late Sri Raghav has also shown the petitioner as his son.

It is not disputed by either of the party that the petitioner was adopted by late Sri Raghav in the year 1995 and after 1995 he has written a letter to the University for nomination of the

petitioner in respect of his post retiral benefits etc. In the Counter affidavit, the respondents have raised further objection that in the transfer certificate issued by the school to the petitioner in the year 2000, the name of the father of the petitioner is mentioned as Sri Ramjeet and not Sri Raghav.

Learned counsel for the petitioner has submitted that the petitioner had joined the school in the year 1994 and remained there till 1998, when he entered in the Institution in the year 1994 at that time late Sri Raghav had not adopted him as he was adopted in the year 1995 as such, there is nothing contrary to the Godnama as in the year 1994 he was the son of Sri Ramjeet.

I find force in submission of the learned counsel for the petitioner. In the year 1994, when the petitioner entered in the Institution, it is rightly mentioned the name of father of the petitioner as Ramjeet, it is only in the year 1995, Sri Raghav adopted the petitioner as his son.

It is not disputed that the petitioner is adopted son of late Raghav who was working in the University and was in regular service.

The petitioner has also obtained a succession certificate from the Civil Judge, (Jr. Div.), Rudrapur, U.S. Nagar and has applied for the post retiral benefits of late Sri Raghav. For the purposes of providing appointment to the dependant of an employee under dying-in-harness Rules, the son includes adopted son, and as such, the petitioner is entitled for consideration for appointment under dying-in-harness Rules.

For the reasons recorded above, the writ petition is allowed. The respondents are directed to consider the case of the petitioner for appointment under dying-in-harness Rules. No order as to costs.

So far the second relief for payment of post retiral benefits of late Sri Raghav, the petitioner has submitted that he has

already got the succession certificate from Civil Judge (Jr. Div.), Rudrapur. The petitioner may approach appropriate authority for release of the post retiral benefits and in case the same is not paid to the petitioner, the petitioner is at liberty to file writ petition before this Court for appropriate direction.

(M.M.Ghildiyal, J.)

March 9,2006:
NCM: